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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

FEB 09 2009

In re Application of
Axe, et al.
Application No. 09/636,418
Filed: August 10, 2000
Attorney Docket No. 021756-018700US
For: VISUAL CONFIGURATOR

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 16, 2009, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee in response to the September 11, 2008 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on December 12, 2008. A Notice of Abandonment was mailed on January 7, 2009.

Petitioners allege that the September 11, 2008 Notice was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the September 11, 2008 Notice been received. In addition, practitioner referenced the


¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

docket record in the petition and stated that a review of the file jacket for the September 11, 2008 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the January 7, 2009 Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center AU 2178 for the re-mailing of the September 11, 2008 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions